Preamble to Amendment 91-253

Operating Requirements: Domestic, Flag, Supplemental, Commuter, and On-Demand Operations: Corrections and Editorial Changes

Adopted: March 12, 1997 **Effective: March 12, 1997**

(Published in 62 FR 13248, March 19, 1997)
(Corrected in 62 FR 15570, April 1, 1997)

SUMMARY: The FAA is amending parts 21, 25, 91, 119, 121, 125, and 135 to correct errors, make terminology consistent, or clarify the intent of the regulations published on December 20, 1995 (60 FR 65832). A few changes are to clarify existing rules or to deal with other long-standing exemptions. A new Special Federal Aviation Regulation is being issued to address three problems that relate to compliance with requirements for communications facilities and aircraft dispatchers by operators in Alaska and other areas.

FOR FURTHER INFORMATION CONTACT: Katherine Hakala, Flight Standards Service (AFS), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8166 or 267-3760.

SUPPLEMENTARY INFORMATION:

Availability of the Final Rule

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the Federal Register's electronic bulletin board service (telephone: 202-512-1661).

Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's webpage at http://www.access.gpo.gov/su_docs for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by mail by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9677. Communications must identify the docket number of this final rule.

Persons interested in being placed on the mailing list for future NPRM's should request from the FAA's Office of Rulemaking a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

On December 20, 1995, new part 119, Certification: Air Carriers and Commercial Operators, was published in the *Federal Register* (60 FR 65832; December 20, 1995). Part 119 reorganizes, into one part, certification and operations specifications requirements that formerly existed in SFAR 38-2 and in parts 121 and 135. The final rule for new part 119 also deleted or changed certain sections in part 121, subparts A through D, and part 135, subpart A, because the requirements in those subparts have been recodified in part 119. On January 26, 1996, another final rule was published (61 FR 2608) affecting parts 119, 121, and 135. That amendment made editorial and terminology changes in the remaining subparts of parts 121 and 135 to conform those parts to the language of part 119 and to make certain other changes. Additional documents making editorial changes and corrections were published on March 11, 1996 (61 FR 9612), and June 14, 1996 (61 FR 30432).

Part 119 was issued as part of a large rulemaking effort, known as the "commuter rule," to upgrade the requirements that apply to scheduled operations conducted in airplanes that have a passenger seat configuration of 10 to 30 passengers. As of March 20, 1997, these operations will be conducted under the requirements of part 121, in accordance with the final rule published on December 20, 1995.

Notice of Proposed Rulemaking

On February 3, 1997, the FAA published an NPRM (62 FR 5076; Notice No. 97-1) proposing changes to correct errors, make terminology consistent, clarify the intent of part 119 and the commuter rule published on December 20, 1995, as well as make other minor changes not directly related to the commuter rule. These proposed changes are considered important because, as a result of the implementation of part 119 and the completion of the transition process for commuter operations affected by the final rule, a number of questions of interpretation have been raised and errors in previous final rules

have been identified. In addition, a new Special Federal Aviation Regulation (SFAR) is needed to address three problems that relate to compliance with requirements for communications facilities and for aircraft dispatchers by operators in Alaska and other areas.

Public Comment

The FAA requested comments, within 30 days of publication of Notice No. 97–1, on a number of proposals contained in the NPRM. Interested persons were invited to participate in this rulemaking action by submitting written data, views, or arguments. All comments received were considered before issuing this final rule.

The FAA received 19 comments in response to Notice No. 97–1. Comments were received from operators affected by the proposed rule, aircraft dispatchers, industry associations, and a manufacturer of communications system. Many commenters stressed the importance of having the final rule issued before March 20, 1997, when the majority of the commuter rule provisions go into effect. Other specific comments are summarized in the following section-by-section discussion of the final rule, which includes the FAA's responses to these comments.

Explanation of Amendments

A number of changes are necessary in parts 21, 25, 91, 119, 121, 125, and 135 to correct typographical errors, to make minor editorial changes that help clarify the intent of the rules, or to make editorial changes that make related rules consistent with each other. These types of changes are not individually explained. However, a number of changes require some explanation, which follows:

1. The proposal revised the definitions of "on-demand operation," "scheduled operation," and "supplemental operation" in § 119.3 to make it clear that public charter operations conducted under 14 CFR part 380 are not considered scheduled operations.

No comments were received on the proposed definitions and the changes to § 119.3 are adopted as proposed.

2. The proposal amended § 119.5 to add new paragraph (k), which incorporated former § 135.31 into part 119. As proposed, this section prohibited advertising or otherwise offering to perform any operation unauthorized by the FAA, and it was applicable to any person, including certificate holders operating under part 121, as well as those operating under part 135.

The proposal also added § 119.5(l) which stated that, for safety purposes, people who operate aircraft under parts 121 and 135 must comply with the provisions in a certificate holder's operations specifications. This paragraph was proposed to prevent an employee of a certificate holder (with or without other certificate holder's knowledge) from violating the provisions of the certificate holder's operations specifications. For example, if a certificate holder is only authorized to carry cargo, a flight crewmember would not be allowed to bring along a friend as a passenger on the commercial flight.

No comments were received on these proposals and the changes to § 119.5 are adopted as proposed.

3. The proposal amended § 119.9 to allow displaying the air carrier or operating certificate number on an aircraft instead of the name of the certificate holder. As described in the NPRM, a petition by the National Air Transportation Association (NATA) and supporting comments requested that, for security and financial reasons, operators be allowed to display the air carrier or operating certificate number in lieu of the name of the certificate holder. In the NPRM, the FAA agreed that display of an air carrier or operating certificate number would meet the intent of this requirement, which is to provide a ready means of identifying a responsible certificate holder when an aircraft is parked and the FAA has reason to identify or contact the certificate holder. Therefore, the FAA proposed to amend § 119.9(b)(4) as requested by NATA.

The proposal also deleted the provision allowing the Assistant Administrator for Civil Aviation Security to grant deviations from the requirements of this section because the FAA no longer believed that these deviations were necessary.

NATA, Helicopter Association International (HAI), and individual operators affected by the proposed change to § 119.9(b) comment in support of allowing part 135 operators to display their air carrier or operating certificate number on an aircraft instead of the name of the certificate holder. Commenters emphasize that, if the FAA adopts the proposed amendment, it is imperative to make the amendment effective before March 20, 1997, so that they will not need to apply the certificate holder's name temporarily on the aircraft, and then remove it when the amendment takes effect later. One operator comments that even having the operating certificate number on the aircraft creates a security risk for some customers.

As discussed above, the FAA must be able to readily identify the responsible certificate holder conducting an operation, and having the air carrier or operating certificate number on an aircraft will provide the necessary identification. Therefore, the changes to § 119.9 are adopted as proposed and are effective as of the date of issuance of this final rule.

4. The proposal amended § 119.21(a)(1) to allow domestic operations conducted from the Pribilof Islands and the Shumagin Islands to request permission to comply with the dispatching requirements of subpart U of part 121 applicable to flag operations. The NPRM also stated that, in the final rule, the FAA may include other Alaskan island locations in this provision, if requested to do so by commenters and if adding the names of those islands is consistent with safety considerations.

No comments were received on the proposal and the changes to § 119.21 are adopted as proposed.

5. The proposal amended § 119.35 to clarify that the additional financial and contract reporting requirements of this section apply only to commercial operators. The proposal split § 119.35 into two sections: Proposed § 119.35 contained just the certificate application procedures that apply to all applicants, and new § 119.36 contained the additional requirements for commercial operators.

In the NPRM, the FAA proposed that § 119.36 distinguish between requirements for all commercial operators and those applicable only to commercial operators under part 121. In addition, the FAA proposed to delete the financial reporting requirements of § 135.64(b), but to retain the contract retention requirements in § 135.64(a).

No comments were received on the proposal and §§ 119.35 and 119.36 are adopted as proposed.

6. The proposal revised § 119.67(c) and (d) to amend the qualification requirements applicable to Directors of Maintenance and Chief Inspectors under part 121. The proposal also revised § 119.71(e) to amend the qualification and experience requirements applicable to the Director of Maintenance under part 135.

Both proposals established requirements for a person becoming the Director of Maintenance or Chief Inspector for the first time. These proposals were designed to ensure that persons holding these required management positions have the measure of experience and the demonstrated capability of effectively managing these programs.

The FAA proposed that, under §§ 119.67(c)(1) and 119.71(e)(1), the Director of Maintenance must have held the airframe and powerplant ratings for 3 years.

The proposal also amended § 119.67(c)(2) by changing the existing 1 year of maintenance experience in a supervisory capacity in maintaining the category and class of airplane used by the certificate holder, to 3 years of supervisory experience within the last 6 years in a position that exercised operational control over maintenance program functions.

In addition, the proposal amended § 119.67(c)(4)(i)(B) by replacing the word "repairing" with the word "maintaining", as the latter is consistent with the definition of maintenance as defined in 14 CFR 1.1. In addition, the word "maintaining" reflects the broader experience level more appropriate to the Director position.

For the Chief Inspector position, the proposal changed § 119.67(d)(2) to require 3 years of supervisory or managerial experience within the last 6 years.

The proposal also revised § 119.67(e) to clarify that certificate holders may request a deviation from the experience requirements of the section, but not from the airman certificate requirements of the section. Therefore, a certificate holder would not be allowed to employ a person who does not hold the required airman certificate (e.g., ATP certificate, commercial pilot certificate, mechanic certificate).

Proposed § 119.71 contained the management qualification requirements that formerly appeared in § 135.39. Section 119.71(b) and (d) required that the Director of Operations and the Chief Pilot, respectively, must hold at least a commercial pilot certificate with an instrument rating. However, under former § 135.39 the instrument rating was required only if any pilot in command for that certificate holder was required to have an instrument rating. For operations such as a VFR only helicopter operation, the pilot in command is not required to hold an instrument rating. Therefore the FAA proposed that § 119.71(b) and (d) be revised to match the intent of former § 135.39.

HAI comments in support of the proposed amendment of § 119.71(b) and (d) on behalf its membership, which includes a substantial number of VFR-only helicopter operations. HAI states that without the amendment to § 119.71(b) and (d) many operators would be forced to suspend operations until personnel that meet the current requirements can be identified and hired, and that there may not be enough such

personnel available. HAI believes that this burden would be onerous and inappropriate in view of the fact that the operators in question do not conduct instrument operations.

The FAA agrees with HAI's comments and the amendments to § 119.71(b) and (d) are adopted as proposed. No comments were received on the proposal to revise §§ 119.67(e) and 119.71(f) and those amendments are adopted as proposed. The FAA has reviewed the proposed changes to the experience requirements for Director of Maintenance and Chief Inspector in light of issues raising during implementation of the commuter rule and the determined that further study of these proposal is necessary. Therefore the FAA withdraws the proposal amendments to §§ 119.67(c) and (d) and 119.71(e), for consideration in a future rulemaking.

7. In the NPRM, the FAA proposed that a new Special Federal Aviation Regulation (SFAR) be added to part 121 to address two problems that relate to compliance with § 121.99 and a third problem that relates to compliance with § 121.395. These are outlined below.

(1) The first problem involves certain communications difficulties in Alaska and other areas affecting certificate holders who are required by § 121.99 to "show that a two-way air/ground communication system is available at all points that will ensure reliable and rapid communications under normal operating conditions over the entire route (either direct or via approved point to point circuits) between each airplane and the appropriate dispatch office and between each airplane and the appropriate air traffic control unit."

The NPRM pointed out that, in certain areas, the lack of infrastructure or appropriate technology has prevented certificate holders from establishing such systems. For other certificate holders, the nature of their operations (e.g., flying at low altitudes or in mountainous terrain) has prevented them from using current communication systems that may be reliable only at higher altitudes.

If a certificate holder shows to the Administrator that communications gaps exist due to such reasons as lack of infrastructure, ATC operating restrictions, the terrain, operating altitude, or feasibility of a certain kind of communications system, the certificate holder would be allowed to continue to operate over that route if the certificate holder establishes alternative procedures for prompt re-establishment of communication, for establishment that the airplane arrived at its destination, and for flight locating purposes. Under the SFAR, relief would only be granted after the certificate holder shows that it would meet the requirements to the maximum extent possible. In granting such approval, the Administrator would consider certain factors that are listed in the SFAR.

Under the proposed SFAR, the certificate holder would obtain the approval of the Administrator in its operations specifications. The requests will be processed through the certificate-holding district office, with concurrence by the FAA's Air Transportation Division (AFS–200). This type of alternative compliance approval would only be available for scheduled operations with airplanes having a passenger-seat configuration of 30 seats of fewer, excluding each crewmember seat, and a payload capacity of 7,500 pounds of less under part 121 of this chapter.

(2) The second § 121.99-related problem involves certificate holders who have conducted or who might in the future conduct scheduled intrastate operations in Alaska. Under the pre-commuter rule amendments these operations operated under the rules applicable to flag air carriers and thus, under the last sentence of § 121.99, were not prohibited from using a communications system operated by the United States. For certificate holders operating intrastate in Alaska, whether certificated before or after January 19, 1996, it was considered impractical at that time to mandate that the required communications systems be independent of any system operated by the United States.

Therefore even though these certificate holders would otherwise have been required to comply with the operating rules for domestic operations, under the proposed SFAR they would be allowed to use systems operated by the United States, when there is no practical alternative, for the 4-year effective period of the SFAR. The FAA further proposed to amend § 121.99 to require that, concurrent with the expiration of the SFAR, all flag operations in Alaska, not just those affected by the commuter rule change mentioned above, have communications systems that are independent of any system operated by the United States.

(3) The third issue addressed by the proposed SFAR relates to the use of aircraft dispatchers by former commuter operations in Alaska who are required by the commuter rule to have a part 121 dispatch system. It is long-standing FAA policy that each certificate holder subject to § 121.395 have aircraft dispatchers that are employed exclusively by that certificate holder. However, small operations located in remote areas have found it hard to attract qualified, certificated aircraft dispatchers to work and live in those areas.

Therefore the FAA proposed to allow certificate holders conducting scheduled operations in Alaska with airplanes having a passenger-seat configuration of 30 seats or fewer, excluding each crewmember seat, and a payload capacity of 7,500 pounds or less under part 121 of this chapter, to share aircraft dispatchers if they are authorized to do so by the Administrator in their operations specifications. The requests will be processed through the certificate-holding district office, with concurrence by the FAA's Air Transportation Division (AFS-200). Before granting such an authorization, the Administrator would consider certain factors that are listed in the SFAR.

The FAA proposed that the SFAR would expire 4 years after it is issued because the FAA expects that adequate communications facilities would become available in all parts of Alaska and other areas within that time.

Several commenters address the provisions in the proposed SFAR. The Air Transport Association (ATA) sees no reason why the SFAR should be so restrictive and limited to commuter operations, because from a safety standpoint, larger aircraft have greater fuel capacity and alternate airport capability, and generally have a larger safety margin built in than small commuter aircraft. NATA believes that the proposed SFAR does not adequately address the special nature of flight operations in rural Alaskan areas, because the inherent problem is that Alaska simply does not have the infrastructure to guarantee communications in remote areas. Also NATA believes that operations in designated remote areas, where flights are mainly VFR, flight plans frequently change, and airports are often unattended, should not be subjected to the same stringent dispatching requirements applied to other part 121 operations. An aeronautical communications company disagrees with FAA's statements on lack of infrastructure and availability of appropriate technology. This commenter believes that there is a wide variety of choices available to meet the communication needs for positive operational control and that operators in remote geographical areas may need to make a combination of choices to allow them to meet the requirements of the current rules.

The Airline Dispatchers Federation (ADF) and an individual aircraft dispatcher address the relationship between the communications system required by § 121.99 and the role of the aircraft dispatcher in providing information that may affect the safety of the flight to the pilot in command. ADF believes that adequate air ground communication technology is available for Alaskan operations, but that if there is a lack of weather reporting along their routes, air carriers can provide station and other personnel with telephone, dial access radio, HF, VHF, or SatComm communications and provide them with the training to provide accurate weather and aerodrome information. ADF further suggests that Alaskan air carriers cooperate to build their own radio network to cover their routes or that the State of Alaska may want to help finance any additional infrastructure required for scheduled air service in Alaska.

ADF suggests that Alaskan pilots, operating under a "bush" mentality, have knowingly flown in IMC or VFR flights in response to operational pressures, and that when adequate communication systems are in place and aircraft dispatchers are able to obtain accurate information on weather and other local conditions, the pilots will no longer be able to decide on their own whether or not to initiate or continue a particular flight, because, if the information does not show the operation can be conducted safely, the dispatcher may not authorize the flight.

ADF and the aircraft dispatcher object to FAA's proposal to allow Alaskan air carriers to share aircraft dispatchers under certain conditions. The commenters fear that a dispatcher working under contract or exercising operational control on a competitor's flight may have his or her actions second-guessed by the management of the other airline. ADF comments that a shared dispatcher may be kept at a distance from the operations and only told what company employees want the dispatcher to know.

ADF and the dispatcher believe that part 135 operators who have faced the challenge of complying with the communications and dispatching rules of part 121 should be commended and not effectively penalized economically by competitors who take advantage of the provisions in the proposed SFAR.

After careful consideration of these comments, the FAA has decided to issue the SFAR as proposed. The FAA disagrees with ATA's assertion that the SFAR should also apply to air carriers operating larger planes, but instead agrees with ADF that the rules in part 121 requiring adequate communications systems and a full aircraft dispatching system for scheduled operations have contributed for many years to a high level of safety that should be applied as well to scheduled operations affected by the commuter rule. The purpose of the SFAR is to allow the FAA, the affected commuter operators, and the communications equipment industry to work together to bring every commuter operator into compliance with part 121 as soon as possible. However, the FAA's experience in implementing the commuter rule has been that there *are* gaps in certain remote areas that could not be remedied before the March 20, 1997, deadline for implementing the commuter rule. This is the exception rather than the rule. The limited number of commuter operators who have not been able to close the communications gaps along all of their routes have been evaluating systems and trying to develop plans for complying with § 121.99.

The SFAR will allow extra time for the installation of ground-based systems, the development of satellite systems, or the development and approval of technology appropriate to the needs of remote operators.

The FAA agrees with commenters that the role of aircraft dispatchers is critical to ensuring the safety of flight, particularly in areas such as Alaska that are subject to difficult and changing weather conditions. That is why the FAA is not excepting Alaskan carriers from the dispatcher requirement. However, under section 1205 of the Federal Aviation Reauthorization Act of 1996 (Pub. L. 104–264), when modifying regulations affecting intrastate aviation in Alaska, the FAA Administrator must consider the extent to which Alaska is not served by transportation modes other than aviation, and must establish such regulatory distinctions as the Administrator considers appropriate. Also, in implementing the commuter rule, the FAA has found that in the unique environment of Alaska, it is difficult to recruit and retain qualified certificated aircraft dispatchers. The commenters' fears about the potential for contract dispatchers or dispatchers exercising operational control over competitors' flights are unwarranted because the SFAR allows for the sharing of dispatchers by 2 companies, not for the contracting out of dispatching services. The 2 companies would be authorized to share a dispatcher only when the companies can show to the FAA that they have joint plans for complying with the dispatcher training and qualification rules and that the number of flights for which the dispatcher would be responsible would not be beyond the capacity of a single dispatcher.

The FAA does not think that authority to operate under the SFAR would provide an economic advantage to a commuter operator because the authority will be granted in a very limited number of cases and only when the operator has shown to the FAA that it is proceeding on a plan and has a schedule for coming into full compliance with the part 121 rules within 4 years.

8. The proposal amended § 121.99 to allow for "other means of communication approved by the Administrator" as an alternative to the two-way radio communication system required by that section. This would allow certificate holders to use other types of technology, such as datalink or telephonic communication systems, to comply with this section.

No comments were received on the proposal and the changes to § 121.99 are adopted as proposed.

9. The proposal amended the manual requirements in §§ 121.137, 121.139, 125.71, 135.21, and 135.427 to make these sections compatible with § 121.133. (Section 121.133 had been revised in the commuter rule to allow a certificate holder to prepare its maintenance manual in any form acceptable to the Administrator.) Therefore, the FAA proposed in the NPRM to include the language "any form acceptable to the Administrator" in the sections above.

The proposal also amended these sections to clarify that, regardless of the form of the maintenance manual, it must be retrievable in the English language. Certificate holders who purchase equipment from foreign manufacturers or previous foreign owners must ensure that the maintenance instructions to be followed by their employees and reviewed by the FAA are in English.

No comments were received on the proposal and the changes to the manual requirements are adopted as proposed.

10. The proposal revised § 121.305(j) to clarify the requirements for third attitude indicators for turbopropeller-powered airplanes having a passenger seat configuration of 30 seats or fewer and turbopropeller-powered airplanes with more than 30 seats. The latter have been required to have third attitude indicators since October 1994.

No comments were received on the proposal and the changes to § 121.305 are adopted as proposed.

11. The FAA proposed to allow 2 years from the date of the final rule for the affected operators to install emergency exit locating signs that comply with § 121.310(b)(1). The additional 2 years for compliance would be granted to both in-service 10–19 seat airplanes and newly manufactured 10–19 seat airplanes. Paragraph (b)(1) of § 121.310 requires that the identity and location of each passenger emergency exit must be marked so that the exit is recognizable from a distance equal to the width of the cabin and that the location of the exit must be indicated by a sign visible to occupants approaching along the main passenger aisle. Paragraph (b)(1)(i) requires that one of the locating signs must be on the ceiling of the cabin. Because of limited headroom, most of the 10–19 seat airplanes used by operators subject to the commuter rule do not have locating signs on the ceiling, but have been allowed to use two-dimensional signs mounted flush to the cabin sidewalls. For these 10–19 seat airplanes with limited headroom, the simplest means of complying may be to replace the two-dimensional signs with beveled or three-dimensional signs that can be read easily at the cabin extremes; that type of sign would function to both identify and locate the corresponding exit.

The FAA also proposed adding a paragraph (b)(2)(iii) to § 121.310; this paragraph identifies the certification requirements for passenger emergency exit marking and locating signs. The proposal addressed the 10–19 passenger seat nontransport category airplanes. Similar to paragraph (b)(2)(i), it would mandate that the sign luminescence be 160 microlamberts at the time of manufacture; it would also prohibit the use of a sign in service if the luminescence decreases to below 100 microlamberts. Proposed paragraph (b)(2)(iii) should provide adequate levels of luminescence; the signs would have the same brightness as signs in some transport category airplanes currently manufactured and currently operated under part 121, which have no longer distances between exits than the 10–19 passenger seat airplanes.

No comments were received on the proposals and the changes to § 121.310 are adopted as proposed.

12. The proposal amended § 121.133(c) to correct an omission concerning the use of quick-donning oxygen masks at flight levels above 250 as a substitute for having one pilot at the controls wear and use an oxygen mask at all times. For pressurized turbine engine powered airplanes, § 121.333(c) has allowed the availability of a quick-donning mask to be a substitute for wearing and using a mask at all times at or below flight level 410. However, under § 135.89(b)(3) at least one pilot at the controls of a pressurized airplane is required at altitudes above flight level 350 to wear and use an oxygen mask at all times.

For those 10–30 passenger airplanes that will be operating under part 121 as a result of the commuter rule amendments, the proposal stated that flight level 350 rather than flight level 410 would continue to be the appropriate altitude at which at least one pilot at the controls would be required to wear an oxygen mask at all times.

Since the commuter rule was not intended to relax this requirement, the FAA proposed to amend § 121.333(c) to incorporate the requirements of § 135.89(b)(3) for airplanes with less than 31 seats, excluding any required crewmember seat, and a payload capacity of 7,500 pounds or less.

No comments were received on the proposal and the changes to § 121.333 are adopted as proposed.

13. The proposal amended § 121.437 to eliminate a redundancy that was created by an earlier corrective amendment and by adding a new sentence that would have the effect of codifying an existing exemption that had been in effect since 1980.

The FAA granted the ATA an exemption from § 121.437 (Exemption No. 2965), allowing a pilot employed by a part 121 certificate holder as a flight crewmember to be issued additional category and class ratings to the pilot's certificate if the pilot had satisfactorily completed the appropriate training requirements of subpart N and the proficiency check requirements of § 121.441 by presenting proof of this to the Administrator. This exemption was extended 9 times and is due to expire on July 31, 1997.

Over the 16 years that the exemption has been in effect, there has been no known derogation of safety. Therefore, since the FAA has not had the resources to conduct each proficiency check required by the rule, the FAA proposed to codify Exemption 2965 into § 121.437.

ATA supports the proposed changes to § 121.437 and adds that codifying the exemption will also reduce the administrative burden on both the airlines and the FAA. The final rule is adopted as proposed.

Tables 1–4 From the Commuter Rule

In the preamble of the NPRM for this final rule, the FAA corrected and republished 3 tables that were a part of the original commuter rule preamble: Table 2, *Comparable Sections in Parts 121 and 135*, and Tables 3 and 4, the Derivation and Distribution Tables for part 119. There have been no changes to these informational tables since the NPRM was published (February 3, 1997; 62 FR 5076). The FAA is in the process of updating Table 1, *Summary of New Equipment and Performance Modifications for Affected Commuters*, originally published in the commuter rule, to present the delayed compliance dates for the equipment and performance modifications required by the commuter rule and subsequent amendments.

Any person may obtain a copy of Tables 1–4 by mail by submitting a request to: Linda Williams, Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9685.

Federalism Implications

The regulations herein do not have substantial direct effects on the states, on the relationship between national government and the states, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no new requirements for information collection associated with this rule.

Good Cause Justification for Immediate Adoption

This amendment is needed to make editorial corrections and other changes to the commuter rule that must be in place before the commuter rule takes final effect on March 20, 1997. In view of this need to expedite these changes, and because the amendments would impose no additional burdens on the public, I find that the amendment should be made effective in less than 30 days after publication. Therefore, this final rule is effective as of the date of issuance.

Conclusion

The FAA has determined that this final rule imposes no additional burden on any person. Accordingly, it has been determined that the action: (1) Is not a significant rule under Executive Order 12866; and (2) is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). No cost impact is expected to result and a full regulatory evaluation is not required. In addition, the FAA certifies that the final rule will not have a significant cost impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Adoption of Amendments

Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR parts 21, 25, 91, 119, 121, 125, and 135 effective March 12, 1997.

The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

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